

**UNIVERSAL TECHNOLOGIES, INC.,
and JESSE E. ROGERS,**

Plaintiffs,

V.

**FAYE CLEEK, CARLA BEAN,
NICHOLAS BEAN, GAYE
LAWEDERMILK, CYNTHIA
MATLOCK, UNIVERSAL SERVICES &
SUPPLY, ARARAIZA, AND ARAIZA
COMPANY, LLC,**

Defendants.

Case No. 2:14-cv-00091

Judge Sharp
Magistrate Judge Brown

JURY DEMAND

**DEFENDANTS FAYE CLEEK’S, ARAIZA’S, GAYE LAWDERMILK’S, AND
UNIVERSAL SERVICES & SUPPLY, LLC’S MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Pursuant to Federal Rules of Civil Procedure Rule 56, and for the reasons stated in Defendants Faye Cleek's, ARAIZA's, Gaye Lawdermilk's, and Universal Services & Supply's Brief in Support of Motion for Partial Summary Judgment, filed contemporaneously herewith, Defendants Faye Cleek, ARAIZA, Gaye Lawdermilk, and Universal Services & Supply respectfully move this Court for entry of summary judgment and bar recovery for the following:

1. With respect to Claim II, Civil RICO, 18 U.S.C. § 1962:
 - Grant summary judgment in favor of Defendants Gaye Lawdermilk and Universal Services & Supply;

- Grant summary judgment in favor of Defendants Faye Cleek, ARAIZA, Gaye Lawdermilk, and Universal Services & Supply for injuries that were or should have been discovered prior to September 30, 2010.
2. With respect to Claim III, Civil RICO 18, U.S.C. § 1962:
 - Grant summary judgment in favor of Defendants Gaye Lawdermilk and Universal Services & Supply;
 - Grant summary judgment in favor of Defendants Faye Cleek, ARAIZA, Gaye Lawdermilk, and Universal Services & Supply for injuries that were or should have been discovered prior to September 30, 2010.
 3. With respect to Claim IV, Conversion, Theft and/or Embezzlement:
 - Grant summary judgment in favor of Defendants Faye Cleek, ARAIZA, Gaye Lawdermilk, and Universal Services & Supply for injuries resulting from conversion of negotiable instruments that occurred prior to September 30, 2011.
 - Grant summary judgment in favor of Defendants Faye Cleek, ARAIZA, Gaye Lawdermilk, and Universal Services & Supply for injuries that were or should have been discovered prior to September 30, 2011.
 4. With respect to Claim V, Intentional Interference with Current and Prospective Business Relations:
 - Grant summary judgment in favor of Defendant Faye Cleek.
 5. With respect to Claim VI, Computer Fraud and Abuse Act, 18 U.S.C. § 1030(g):
 - Grant summary judgment in favor of Defendant Faye Cleek.
 6. With respect to Claim VII, Breach of Fiduciary Duty:

- Grant summary judgment in favor of Defendant Cleek for injuries that were or should have been discovered prior to September 30, 2013.
7. With respect to Claim VIII, Breach of Fiduciary Duty Under ERISA, 29 U.S.C. §1001, et seq.:
- Grant summary judgment in favor of Defendants Faye Cleek, ARAIZA, Gaye Lawdermilk, and Universal Services & Supply as to UTI's claims for lack of standing.
 - Grant summary judgment in favor of Defendants Gaye Lawdermilk and Universal Services & Supply as to Jesse Rogers' claims for failure to demonstrate that either was a fiduciary.
 - Grant summary judgment in favor of Defendants Faye Cleek, ARAIZA, Gaye Lawdermilk, and Universal Services & Supply as to Jesse Rogers' claims for failure to demonstrate harm.
8. With respect to Claim VIII[sic], Fraud:
- Grant summary judgment in favor of Defendant Faye Cleek;
 - Grant summary judgment in favor of Defendant Faye Cleek for injuries that were or should have been discovered prior to September 30, 2011.
9. With respect to Claim IX[sic], Civil Conspiracy:
- Grant summary judgment in favor of Defendants Faye Cleek, ARAIZA, Gaye Lawdermilk, and Universal Services & Supply for injuries that were or should have been discovered prior to September 30, 2011.

Pursuant to LR 56.01(b), Defendants Faye Cleek, ARAIZA, Gaye Lawdermilk, and Universal Services & Supply also submit a Statement of Undisputed Material Facts accompanying this Motion.

DATED: October 19, 2016

Respectfully Submitted,

/s/ John F. Triggs

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on all counsel of record on October 19, 2016 via the Court's CM/ECF system.

/s/ John F. Triggs
John F. Triggs